



UNITED STATES MARINE CORPS
MARINE CORPS SYSTEMS COMMAND
2200 LESTER STREET
QUANTICO, VIRGINIA 22134-5010

IN REPLY REFER TO:

5720

DON-USMC-2018-010064

14 Sep 18

TECHNOLOGY ADVANCMENT GROUP, INC.
MS. JACQUELINE MCEWAN
22355 TAG WAY
DULLES VA 20166

SUBJECT: FOIA REQUEST DON-USMC-2018-010064

Dear Ms. McEwan:

This responds to your FOIA request dated August 1, 2018, which requests a copy of "all material related to the solicitation and selection process that led up to the award of contract M67854-13-D-5023. This information is to include the initial solicitation, proposals received, redacted if necessary, agency evaluation and any supporting documents related to the award of the contract."

Your request is hereby partially denied. Your request for proposal documents falls under FOIA Exemption 5 U.S.C. § 552(b)(3), which precludes disclosure of a submitter's information if disclosure is prohibited by another statute. It is important to note that the Competition in Contracting Act of 1984 (CICA) and 10 U.S.C. § 2305(g), preclude the release of proposals. In fact, CICA provides that "a proposal in the possession or control of [a military department] may not be made available to any person under section 552 of title 5." Id.

Additionally, the Trade Secrets Act, 18 U.S.C.A. § 1905 (West Supp. 1999) ("TSA"), also precludes release of the requested proposals. Under this statute, officers and employees of the United States or any U.S. agency or department, are prohibited from divulging or disclosing information that relates to trade secrets, operations, style of work, confidential data, amount or source of income, profits, or expenditures.

FOIA Exemption 5 U.S.C. § 552(b)(4) exempts from disclosure (i) voluntarily submitted commercial or financial information provided that the submitter does not "customarily" disclose the information to the public and provided that disclosure would be likely to interfere with the continued and full availability of the information to the government, or (ii) compelled information

14 Sep 18

likely to cause substantial harm to the competitive position of the person from whom it was obtained and likely to impact on the government's ability to obtain reliable information in the future. See Critical Mass Energy Project v. NRC, 975 F2d 871, 879-80 (D.C. Cir. 1992), cert. denied, 113 S.Ct. 1579 (1993); National Parks & Conservation Ass'n v. Morton, 498 F2d 765, 766 (D.C. Cir. 1974); Canadian Commercial Corp. v. Dept. of Air Force, 514 F.3d 37 (D.C. Cir., 2008).

Releasable portions of the requested document(s) are enclosed. Your request for "agency evaluation and any supporting documents related to the award of the contract" has been determined to be too broad of a description and must be more specific in order to be processed (e.g., you must provide the specific document(s) you are seeking).

Fees associated with your request are minimal and waived.

Department of the Navy
Office of the General Counsel
ATTN: FOIA Appeals Office
1000 Navy Pentagon Room 4E635
Washington DC 20350-1000

For consideration, the appeal must be received in that office within 60 days from the postmark of this letter's envelope. Attach a copy of this letter and a statement regarding why you believe an adequate search was not conducted. Both your appeal letter and the envelope should bear the notation "FREEDOM OF INFORMATION ACT APPEAL". Please provide a copy of any such appeal letter to the MARCORSYSCOM address above.

Any questions concerning this matter should be directed to Mrs. Bobbie Cave at (703) 432-3934 or bobbie.cave@usmc.mil.

Sincerely,

J. J. STOWER
Chief of Staff